

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

ROBIN L. McADAMS,
ADMINISTRATRIX OF THE ESTATE
OF STEPHEN C. McADAMS, and
WANZEK CONSTRUCTION, INC.

Plaintiffs,

vs.

MYRLE D. GILSDORF AND
ANDREWS VAN LINES, INC.,

Defendants,

Case No. 4:11-cv-3117

COMPLAINT AND REQUEST
FOR JURY TRIAL

AND NOW comes Plaintiff, Robin L. McAdams, as the wife and Administratrix of the estate of Stephen C. McAdams by and through her attorneys, Schmidt Kramer PC and Friedman Law Offices hereby aver:

1. Robin L. McAdams is the Administratrix of the Estate of Stephen C. McAdams by virtue of Letters of Administration of the Register of Wills of the Orphan's Court of York County, Pennsylvania and at all times material hereto was a resident of the State of Pennsylvania.

2. Robin L. McAdams is also the spouse of Stephen C. McAdams and the representative of his surviving children and next of kin.

3. Plaintiff Wanzek Construction, Inc., is a North Dakota corporation and at all times material hereto was the employer of Stephen C. McAdams and is made a party to this case pursuant to their status under applicable workers' compensation laws granting a right of subrogation for workers' compensation payments.

4. Defendant, Myrle D. Gilsdorf at all times material hereto was a resident of the State of Nebraska..

5. Defendant Andrews Van Line, Inc. is a Nebraska corporation which provides interstate transportation and whose principle place of business is the City of Norfolk, State of Nebraska.

6. Stephen C. McAdams resided with his wife and children in Wrightsville, York County, Pennsylvania at the time of the incident described herein.

7. On October 8, 2010, Stephen C. McAdams was working at a construction site on a private property located just north of Kimball, South Dakota.

8. Mr. McAdams was standing on the drivers' side of a vehicle driven by a co-worker in the center of the construction site.

9. At that same time and place Defendant Myrle D. Gilsdorf was operating a flatbed truck containing material for the ongoing construction.

10. Defendant Myrle D. Gilsdorf, was not a co-worker of Mr. McAdams nor, was he subcontracted to the employer.

11. In order to unload his goods, Mr. Gilsdorf had to drive his tractor-trailer in a U-turn around the pickup truck where Mr. McAdams was standing.

12. Defendant Gilsdorf's truck cab began on the passenger side of the pickup truck and then moved all the way around the rear of the truck. Gilsdorf then, drove his cab past Mr. McAdams at which point his trailer struck Mr. McAdams, knocking him directly under the trailer's wheels.

13. Stephen C. McAdams died at the scene as a result of the injuries sustained in this accident.

14. At the time of the accident, Defendant Gilsdorf, was acting within the scope of his employment and on behalf of Defendant, Andrews Van Lines, Inc. who contained both a DOT and ICC license issued to Defendant Andrews Van Lines, Inc.

15. Defendant, Andrews Van Lines, Inc. is vicariously liable for the negligence of Mr. Gilsdorf.

16. Defendant Gilsdorf was negligent in failing to make the U-turn safely without running over a pedestrian who was or should have been clearly visible to him as he made the turn.

17. When Plaintiff McAdams was hit by Defendant Gilsdorf, no obstacle was obscuring or impairing said Defendant's ability to see through his front and side windshields to Plaintiff McAdams' location.

18. Plaintiff makes claim for all damages permitted under the law for the wrongful death and survival actions of the state whose law will govern this action.

VENUE AND JURISDICTION

19. Plaintiff is a citizen of the Commonwealth of Pennsylvania.

20. Defendant Gilsdorf and Andrews Van Lines, Inc. are citizens of the State of Nebraska.

21. At the time of his death, Stephen C. McAdams was 40-years-old. His annual income was \$70,000. He left a widow and children. Therefore, it is averred that the amount in controversy exceeds the sum of Seventy-Five Thousands Dollars exclusive of interest, attorney fees and costs.

22. This Court, based on the above allegation has diversity, jurisdiction under 28 U.S.C. § 1332.

23. Venue properly lies with this Court under 28 U.S.C. § 1391 since both Defendants reside within the United States District of Nebraska.

ROBIN L. McADAMS,
ADMINISTRATRIX OF THE ESTATE OF
STEPHEN C. McADAMS, Plaintiff

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